

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8302 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

TANAY CHANDRAVADAN PARIKH (SINCE DECEASED)

Versus

MAMLATDAR CITY TALUKA & ORS

Appearance:

1. Special Civil Application No. 8302 of 1994
MR SHIRISH JOSHI for Petitioner No. 1-1/4
MR AJ DESAI, AGP for Respondent No. 1,4
NOTICE SERVED for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE K.A.PUJ

Date of decision: 24/12/2004

ORAL JUDGEMENT

The petitioner has filed this petition under Article 226 and 227 of the Constitution of India seeking

direction from this Court to the respondent to withdraw and cancel the notices at Annexures E,F,G & H and further direction to give an opportunity of hearing to the petitioner before taking any action as regards the so called dues outstanding against the petitioners, and that too, after making available, copies of the accounts, relevant documents, etc. in that connection to the petitioners.

2. During the pendency of this petition, the petitioner expired and legal heirs were brought on record pursuant to the order passed by this Court on 01.11.2004 in Civil Application No. 8868 of 2004.

3. Heard Mr. Shirish Joshi, learned advocate appearing for the petitioner and Mr. A.J. Desai, learned A.G.P. appearing for the respondents.

4. Mr. Shirish Joshi has submitted that the petitioner's late father Shri Chandravadan Parikh, on partition of the joint family properties held by his father Shri Manilal Mohanlal Parikh, had come into ownership of certain lands bearing Survey Nos. 239, 23 and 324 of Asarwa. On the demise of the said Shri Chandravadan Parikh on 20.06.1990, the petitioner under his application dated 04.03.1991 got the said Survey Numbers entered into his name under two Account Nos. 348 and 372/1. In March 1991, the petitioner had paid up all the revenue dues outstanding in respect of the aforesaid survey numbers under the said two account numbers by issuing the necessary cheque to the Department. It is the case of the petitioners that all the dues were paid in March 1991 and there was no income accruing to the petitioners from the said lands. On 16.05.1994, the respondents issued two notices demanding Rs.26,253/- and Rs.36,246/- being the arrears of land revenue under the aforesaid two accounts. The notices issued under Section 154 of the Land Revenue Code are produced at Annexures E and F. Again, on 08.06.1994, by issuing another set of notices, the petitioner was asked to deposit a sum of Rs. 26,253/- in Account No. 372/1 and another sum of Rs. 36,246/- in Account No. 348. It is the case of the petitioner that pursuant to these two notices, two cheques were collected by pressurising the petitioner for 3/4th of the amount in both the Accounts.

5. Against the said action of the respondents, the petitioner has filed this petition and by ad-interim relief, this Court has restrained the respondents from implementing the notices at Annexures E,F,G & H on condition that the petitioner would deposit an amount of

Rs. 25,000/- . The said amount has already been deposited with this Court within the stipulated time as granted by this Court.

6. Mr. Joshi has further submitted that despite repeated requests and writing of several letters and the reminders to the respondent, with regard to the detailed accounts and the calculations of the amount demanded from the petitioner, the same were not furnished and demand was sought to be recovered in high handed manner. What the petitioner is praying for in the present petition is only a fair opportunity of being heard and if that opportunity is granted, the petitioner could explain to the respondent authorities that the demand as sought to be enforced against the petitioner is not just and proper and the petitioner has almost paid the entire demand. If the amount of Rs. 25,000/- which is already deposited in this Court is adjusted against the demand, if any, nothing would be payable by the petitioner.

7. Mr. A.J. Desai, learned A.G.P. appearing for the respondents has submitted that the notices were issued by the respondents in connection with three Survey Nos., namely, 324, 348 and 372/1 of the properties in question. The respondent authorities have mentioned the amount outstanding against the petitioner in respect of the properties in question on account of land revenue and education cess. The respondent authorities have no objection to furnish the details about the calculation and the accounts of this outstanding demand.

8. After having heard learned advocates appearing for the respective parties and after having gone through the contents of the petition, the Court is of the view that without deciding the correctness of the amount demanded, if the respondent authorities are directed to hear the petitioner's legal representatives in respect of the demands raised against the petitioner, the interest of justice would better be served. Accordingly, the impugned notices issued by the respondent authorities are hereby quashed and set aside with a direction to the respondent authorities to give an opportunity of being heard to the petitioner's legal representatives in connection with the demand outstanding against them and after furnishing necessary details of accounts as well as the calculation of the amount so demanded and to decide the same as early as possible, preferably, within a period of three months from the date of receipt of writ or certified copy of this order, whichever is earlier.

9. The office is directed to remit the amount of

Rs.25,000/- which was ordered to be deposited by this Court on 29.06.1993 and which was in fact deposited on 14.07.1994 under Receipt No. 3259, along with interest accrued thereon, if any, to the Mamlatdar, City Taluka, Ahmedabad within fifteen days from today and the respondents are hereby directed to adjust the said amount against the outstanding demand, if any, which may be determined after granting adequate opportunity of being heard to the petitioner's legal representatives.

10. Subject to the above direction, the petition is allowed. Rule is made absolute to the above extent. No order as to costs.

[K.A. PUJ, J.]

#Savariya#
